

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

| | | | | | |
|---|---|---|--|--|---|
| PRE-APPEAL BRIEF REQUEST FOR REVIEW | | Docket Number (Optional) ATR-A-123 | | | |
| I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature <u>Electronic Filing</u> Typed or printed name _____ | Application Number 10/655,950 | Filed September 4, 2003 | | | |
| | First Named Inventor Michael Gauselmann | | | | |
| | Art Unit 3714 | Examiner Binh An Duc Nguyen | | | |
| <p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table style="width: 100%; border: none;"><tr><td style="width: 50%; vertical-align: top; padding-bottom: 10px;"><p><input type="checkbox"/> applicant/inventor.</p><p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p><p><input checked="" type="checkbox"/> attorney or agent of record. 31,988 Registration number _____</p><p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p></td><td style="width: 50%; vertical-align: top; padding-bottom: 10px; border-left: 1px solid black;"><p style="text-align: right;">/Brian D Ogonowsky/</p><p style="text-align: center;">Signature</p><p style="text-align: center;">Brian D. Ogonowsky</p><p style="text-align: center;">Typed or printed name</p><p style="text-align: center;">(408) 382-0480</p><p style="text-align: center;">Telephone number</p><p style="text-align: center;">March 22, 2010</p><p style="text-align: center;">Date</p></td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> | | | | <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. 31,988 Registration number _____</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p> | <p style="text-align: right;">/Brian D Ogonowsky/</p> <p style="text-align: center;">Signature</p> <p style="text-align: center;">Brian D. Ogonowsky</p> <p style="text-align: center;">Typed or printed name</p> <p style="text-align: center;">(408) 382-0480</p> <p style="text-align: center;">Telephone number</p> <p style="text-align: center;">March 22, 2010</p> <p style="text-align: center;">Date</p> |
| <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. 31,988 Registration number _____</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p> | <p style="text-align: right;">/Brian D Ogonowsky/</p> <p style="text-align: center;">Signature</p> <p style="text-align: center;">Brian D. Ogonowsky</p> <p style="text-align: center;">Typed or printed name</p> <p style="text-align: center;">(408) 382-0480</p> <p style="text-align: center;">Telephone number</p> <p style="text-align: center;">March 22, 2010</p> <p style="text-align: center;">Date</p> | | | | |
| <input checked="" type="checkbox"/> *Total of <u>6</u> forms are submitted. | | | | | |

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Michael Gauselmann
Assignee: Atronic International GmbH
Title: Awarding Of Game Features In A Gaming Machine
Serial No.: 10/655,950 Filing Date: September 4, 2003
Examiner: Binh An Duc Nguyen Group Art Unit: 3714
Docket No.: ATR-A-123 Conf. no.: 8895

San Jose, California
March 22, 2010

Mail Stop AF
COMMISSIONER FOR PATENTS
P. O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL REQUEST FOR REVIEW

Dear Commissioner:

Applicant requests review of the final office action, dated December 10, 2010, and the Advisory Action, dated February 23, 2010.

Claims 1-3, 5, 6, 8, 11, 12, 15-18, 20, 21, 23, 24, and 26-28 are pending and have been rejected. Various claims have been withdrawn and would be allowable if the base claims were allowable. Claims 1 and 17 are independent and are generally parallel method and structure claims.

Claim 1 is reproduced below.

1. A gaming method comprising:

displaying a base game, the base game having a plurality of possible outcomes;

triggering a selection of one or more features to be applied to the base game by a triggering event;

in response to the triggering event, randomly selecting one or more features to be applied to the base game, the one or more features providing a temporary enhancement to the base game to be applied to at least one subsequent base game, the one or more features acting to increase an award value or increase a player's chances of winning an award when playing the base game; and

also in response to the triggering event, randomly selecting a number of subsequent base games, equal to one or more, to which the one or more features will apply.

Claim 17 makes the random selection of the features and the number of subsequent games to which the selected feature applies using "one or more selectors" as follows: "a second display area for displaying one or more selectors randomly selecting the one or more features to be applied to the base game in response to the triggering event, the second display area also for displaying the one or more selectors for randomly selecting a number of subsequent base games, including one or more subsequent base games, to which the one or more features will apply."

The only claim element at issue is the random selection of the number of subsequent base games to which the one or more features will apply in response to the triggering event. This refers to the "power games selector 30" in Fig. 1, described on pages 4-5 of the specification. So, in Claims 1 and 17, not only is the feature randomly selected in response to the triggering event, but the number of games to which the feature is applied is separately randomly selected in response to the triggering event.

The examiner rejected all pending Claims 1-3, 5, 6, 8, 11, 12, 15-18, 20, 21, 23, 24, and 26-28 under 35 USC 102(b) as being unpatentable over Nordman (US 6,905,407) in view of Crawford (US 6,270,412).

Nordman discloses various embodiments of bonus features that are enabled upon a triggering event. This is conventional. There is no suggestion at all in Nordman for the extra step of “randomly selecting a number of subsequent base games, equal to one or more, to which the one or more features will apply.” On page 4 of the final office action, the examiner agrees that Nordman does not teach this step. Once one of the Nordman features is randomly selected, there is no further random determination.

The examiner cites Crawford for Crawford’s teaching of a player or the gaming machine saving symbols from one base game and then applying the saved symbols to any subsequent base game to achieve a winning symbol combination. In Crawford, if a player likes a particular symbol that appears on a stopped reel 40-42 (Fig. 3), or if the gaming machine automatically selects a symbol from a stopped reel, that symbol is saved in a separate display area 56-58 until the player or gaming machine desires to use it in a symbol combination across the reels.

An example of Crawford’s machine, in his Fig. 3, is shown below.

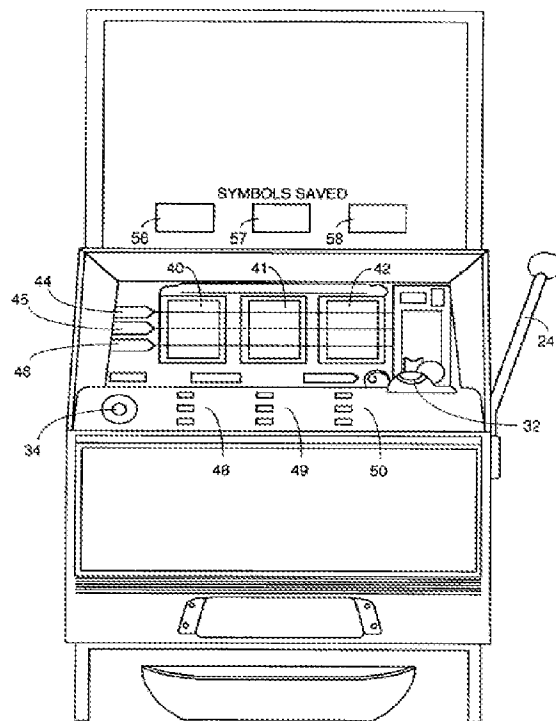


FIG. 3

It is respectfully submitted that there is no suggestion in Crawford of the step of “in response to the triggering event, randomly selecting a number of subsequent base games, equal to one or more, to which the one or more features will apply.” This step is completely absent in Crawford. It would make no sense for Crawford’s gaming machine to randomly select the number of base games to apply to a saved symbol, since the saved symbol would be applied to whatever game would give the player the highest winning combination. There is no predetermination in Crawford, in response to a triggering event, of how many games to which the saved symbol can be applied. Only when the player uses a saved symbol is that saved symbol extinguished (col. 4, lines 43-45).

It is respectfully submitted that the examiner is trying to reject the claims when there is no suggestion for the claims.

The examiner stated on page 3 of the final office action,

Crawford et al., however, teaches a gaming system wherein one or more features randomly selected is saved for the next of subsequent game (see abstract). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide the user a game symbol saving option, as taught by Crawford et al., to the game system of Nordman to enhance game experience, and further, allow the player to continue the game with the saved game feature to encourage the player to play the game again, thus increase casino revenue.

It is respectfully submitted that the number of games to which the Crawford symbol-save feature is applied is not randomly selected in response to the triggering event. Applicant’s claims cannot be broadly construed to cover some randomness in the number of games before a player or Crawford’s machine actually uses a saved symbol, since, in that case, there is still no random selection of a number of games in response to the triggering event.

Even if the Crawford symbol save feature were applied to Nordman, there would be no step of “in response to the triggering event, randomly selecting a number of subsequent base games, equal to one or more, to which the one or more features will apply.”

In the Advisory Action, the examiner stated,

Furthermore, Applicant's argument regarding no randomness involved in the saved symbols of Crawford et al. is deemed not to be persuasive. Crawford teaches that the symbols to be saved are being generated by a random number generator in the program ROM 38 (3:7-10); and that the machine automatically save the symbols to be used in subsequent games 57-64."

It is respectfully submitted that it is not relevant that the symbols are randomly generated and that, in some of Crawford's embodiments, the machine automatically saves the symbols. Applicant's main argument here is that, in Crawford, there is no random selection step, in response to the triggering event, that predetermines how many games to which the feature is to be applied. This claim element is unrelated to the randomness of the symbols themselves.

Claims 1 and 17 have the same patentable features. Accordingly, since all claims depend on Claims 1 and 17, it is respectfully submitted that all claims are allowable.

Additionally, the structure of Claim 17 includes a display area showing one or more selectors for randomly selecting the number of games to which the feature applies. Crawford is inconsistent with such a displayed selector.

Please telephone the undersigned at (408) 382-0480 ex. 202, if there are any questions or suggested claim amendments.

Certificate of Electronic Transmission
I hereby certify that this correspondence is being submitted electronically to the United States Patent and Trademark Office using EFS-Web on the date shown below.

/Brian D Ogonowsky/
Attorney for Applicant(s)

March 22, 2010
Date of Signature

Respectfully submitted,

/Brian D Ogonowsky/

Brian D. Ogonowsky
Attorney for Applicant(s)
Reg. No. 31,988

Patent Law Group LLP
2635 N. First St.
Suite 223
San Jose, CA 95134
Tel (408) 382-0480 x202
Fax (408) 382-0481

Patent Law Group LLP
2635 North First St.
Suite 223
San Jose, CA 95134
(408) 382-0480
FAX (408) 382-0481